**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**ORDINARY ORIGINAL CIVIL JURISDICTION**

**WRIT PETITION NO.3158 OF 2004**

M/s.Shri.Jamnadas Adukia Charity Trust & Anr ...Petitioners

V/s.

Sujata Yeshwant Patil & Ors ...Respondents

Shri.S.J. Panicker for Petitioners.
Shri.Mihir Desai for Respondent No.1.
Ms.S.M. Dandekar AGP for Respondent No.2 and 3.

**CORAM : V.M. KANADE, J.**

**DATED : 25th JUNE, 2007.**

**P.C:-**

1. Heard learned counsel for Petitioners and learned counsel for Respondents.

2. Learned counsel appearing on behalf of the Petitioners and Respondent No.1 have arrived at settlement out of Court. It is agreed between the Petitioners and Respondent No.1 that the Respondents shall not insist on reinstatement and payment of full back wages as directed by the School Tribunal. Order of termination however, will be set aside only to the extent of granting of continuity of service to the Respondent No.1. Admittedly, the Respondent No.1 has now joined

another school from the year 2000 and therefore shall not agree if relief of back wages and reinstatement is not granted or continued in her service.

3. In the result judgment and order dated 30th June, 2004 passed by the Presiding Officer, School Tribunal, Mumbai in Appeal No.MUM/126/198 annexed at Ex.M to the Petition is confirmed subject to the following modifications:-

(1) Respondent No.1 is already working as a permanent Assistant Teacher in V.V. Dewoolkar High School at Mumbai and therefore there will not be any reinstatement in the Petitioner School.

(2) Respondent No.1 gives up any claim for backwages arising from the Judgment dated 30th June, 2004.

(3) The Respondent No.1 however will be treated as in continuous service from 02/09/1996 as an Assistant Teacher by Respondents No.2 and 3 and will be given all the consequential benefits.

(4) The Respondent No.1 worked as a full time Assistant Teacher from 13/06/1999 to 30/04/2000 at Pioneer Public School, Kandivali(E), Mumbai. The School

is a privately managed and fully aided by the State Government and Respondent No.1 was paid her salary in the School by the State Government on the trained graduate scale.

5. Respondent No.1 joined V.V. Dewoolkar High School, Jogeshwari(E) from 2nd January, 2001 and she is confirmed as Assistant Teacher in that School and continued to be employed in that School as full time Assistant Teacher. Said School is fully aided school and the Respondent No.1 has been paid by the State Government her salary and has been treated as trained graduate.

6. Though backwages are not being paid to the Respondent No.1 for the said period, the Respondent No.2 and 3 will treat the Respondent No.1 as if in continuous service and will give her pay fixation and difference of wages as a full time trained graduate Assistant Teacher for the period which she was employed as an Assistant Teacher from 01/09/1996 and she shall be deemed to be in continuous service during the aforesaid period. V.V. Dewoolkar High School, Jogeshwari(E) is expected to forward the necessary papers for the purpose to the Education Department and after the said papers are received, Education Department shall implement this order as expeditiously as possible within a reasonable period of

time of time.

4. Under these circumstances, there shall be no order as to costs. Statement of the learned counsel for the Petitioners and the Respondent No.1 to that effect given on instructions from their clients is accepted and recorded. Petition is accordingly disposed of.

**V.M. KANADE, J.**